

COURTS RULE ON TARIFFS

May 2025

Update as of 4pm on May 29: The Appeals Court said the ruling is stayed (on pause). Tariffs prior to the U.S. Trade Court's ruling on Wednesday are in effect, pending the appeals process which may go to the Supreme Court. The views below remain unchanged.

The U.S. Trade Court struck down President Trump's sweeping "Liberation Day" tariffs. While this ruling pauses the implementation of some currently discussed trade policies, we believe the U.S. remains on a trajectory towards a regime of higher tariffs, which will likely lead to a slowdown in the U.S. economy.

The U.S. Trade Court's ruling may bring about a near-term market reprieve, but it still accords with our 'slowdown' scenario. We believe that the trade court's ruling may not ultimately change the course of tariffs but prolong the time it takes to clearly establish a new trade and fiscal policy regime predicated on higher import levies. The reasons are three-fold: first, it'll sow more uncertainty into the timeline and magnitude of tariffs; second, it also raises doubts about the path forward for bilateral talks, with several nations, which are already underway; and finally, a bit further out, and depending on the Trump administration's legal and political responses, it could raise the stakes for how the market assesses the stability of U.S. institutions.

The U.S. dollar and the price of risk assets could benefit in the near-term as the market may now question the unbounded nature of President Trump's trade tariff authority. Moreover, the Trade Court's ruling also creates near-term scope to re-engage in further front-loading of imports into the U.S.

But it would be premature to conclude that trade wars are anywhere close to ending abruptly. This is because trade imbalances and the 'economic emergency' it has purportedly come to represent in the Trump administration's view has become a cornerstone of its macro policy framework. Notably, the ruling of the Trade Court has already been appealed to a Federal Appeals Court.

Legal Path Ahead: A Protracted Process

The administration is expected to ask the Appeals Court to stay the Trade Court's injunction so that the 'Liberation Day' tariffs can remain in effect during the appeal. If the stay is granted, the tariffs could resume almost immediately. However, legal commentators believe it's unlikely that the Appeals Court will allow reciprocal tariffs to remain in place while the case is under review. If that is the case, it was reported that the U.S. administration would take the case to the Supreme Court as soon as the coming days.

Alternative Avenues for Tariff Action

Even if the legal process proves unfavorable for the U.S. administration, we suspect President Trump could invoke other tariff laws to re-impose foreign trade levies.

Sector-specific tariffs—currently in place and expected to expand to include pharmaceuticals and semiconductors—are already projected to cover approximately 40% of U.S. goods imports once the latest announcements take effect. While sectoral tariffs could be expanded further, they are hardly a direct substitute for reciprocal tariffs. Leaning too heavily on them could result in uneven economic consequences, significantly penalizing some countries while leaving others less affected (e.g. China).

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Other legal levers could be used to get past the Trade Court decision. Most of these avenues take time to impose: there are procedural hurdles, and investigations, and comment periods and so on. That said, one statute allows the president to address "large and serious" balance-of-payment deficits via "import surcharges" of up to 15% and/or import quotas. Any action is limited to 150 days, but it can be extended by Congress.

Finally, since Congress holds the authority to impose tariffs, one potential path forward would be new legislation explicitly authorizing President Trump's tariff program—such as a 10% baseline tariff. President Trump could also lobby Congress to grant broader tariff powers to the presidency, though we view this outcome as less likely.

Conclusion: A Prolonged Period of Uncertainty

We continue to expect a slowdown scenario for the U.S. economy. This is because the administration's likely response would lengthen the uncertainty about the size and resting place of country- and industry-specific tariffs, and not fundamentally alter the ultimate trajectory towards much higher trade barriers. It could also cause large trading partners to delay negotiations or harden their stance, considering the apparent legal hurdles confronting the U.S. administration.

A 'stagnation' scenario is also possible – which incorporates more severe tariff rates, a stronger negative impact on growth and a spike in near-term inflation. Finally, we do not rule out a sizable dialing down of tariffs either. While we view the likelihood of a return to significantly lower tariff levels as relatively low, the Trade Court's ruling may have modestly increased the probability of such an outcome at the margin.

The situation remains fluid and BNY Investments will continue to assess developments as the path forward for U.S. trade policy becomes clearer.

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